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Joint Committee on Taxation
July 9, 1991
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# REVENUE-RELATED PROVISION OF H.R. 2130

## (CAPITAL CONSTRUCTION FUND ELIGIBILITY FOR CERTAIN VESSELS)

For Consideration
by the

COMMITTEE ON WAYS AND MEANS

on July 10, 1991

## Legislative Background

On May 2, 1991, the House Committee on Merchant Marine and Fisheries ordered reported H.R. 2130, a bill that would authorize fiscal year 1992 appropriations for the National Oceanic Atmospheric Administration (NOAA).[1] Section 604(d) of the bill would allow vessels that are used by NOAA to be eligible for participation in the capital construction funds described in section 7518 of the Internal Revenue Code of 1986 and section 607 of the Merchant Marine Act of 1936. The bill has been sequentially referred to the Committee on Ways and Means through July 12, 1991, for consideration of this revenue provision.

This document describes the tax treatment of capital construction funds under present law, the tax-related provision of H.R. 2130, the estimated revenue effect of the provision, and a possible amendment to H.R. 2130 for consideration by the Committee on Ways and Means.

## Present Law

In determining taxable income for regular tax purposes, a qualified taxpayer who owns or leases a qualified vessel is allowed a deduction for certain amounts contributed to a fund established under section 607 of the Merchant Marine Act of 1936 (a "capital construction fund"). In addition, the investment earnings on amounts contributed to a capital construction fund are excluded from gross income for regular tax purposes.

If a withdrawal from a capital construction fund is used to acquire, construct, or reconstruct a qualified vessel, the amount withdrawn generally is not included in gross income and the basis of the qualified vessel generally is reduced by the amount withdrawn to the extent attributable to amounts previously deducted or excluded from income. In the case of

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[1] The report on H.R. 2130 was filed on June 26, 1991 (H. Rept. 102-133, Part 1).

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any other withdrawal from a capital construction fund, the amount withdrawn generally is included in gross income to the extent attributable to amounts previously deducted or excluded from income and interest on the tax liability attributable to such inclusion generally must be paid from the date of the deduction or exclusion.

A qualified vessel generally is any vessel constructed or reconstructed in the United States and documented under the laws of the United States. In addition, the person maintaining the capital construction fund must agree with the Secretary (of Commerce or Transportation) that the vessel will be operated in the United States foreign trade, Great Lakes trade, or noncontiguous domestic trade or in the fisheries of the United States.

## Explanation of Provision

Section 604(d) of H.R. 2130 (as reported by the Committee on Merchant Marine and Fisheries) would amend the definition of qualified vessels that are eligible to participate in capital construction funds to include vessels operated under an agreement with the Secretary of Commerce for use by the National Oceanic and Atmospheric Administration.

## Revenue Effect

The provision is estimated to reduce fiscal year budget receipts by less than $5 million a year for fiscal years 1992 through 1996.

## Possible Committee Amendment

As stated in the attached letter, the House Committee on Merchant Marine and Fisheries has indicated a willingness to amend H.R. 2130 to delete section 604(d) of the bill. However, the House Rules Committee has indicated that, although H.R. 2130 could be amended on the floor, the original text cannot now be stricken by the Committee on Merchant Marine and Fisheries because the bill has already been reported. Therefore, unless the Committee on Ways and Means acts to delete section 604(d) from the bill, an amendment to delete that section would have to be carried on the floor.

The possible Committee on Ways and Means amendment would delete the provision of H.R. 2130 that would allow vessels operated for use by the National Oceanic and Atmospheric Administration to be designated as eligible to participate in capital construction funds.

Attachment

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June 26, 1991

The Honorable Dan Rostenkowski
Chairman
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your letter concerning H.R. 2130, the National Oceanic and Atmospheric Administration (NOAA) Authorization Act of 1991.

H.R. 2130 contains an authorization for NOAA to modernize its aging fleet of oceanographic research vessels. I have been concerned for some time with the Administration's neglect of this fleet, its lack of a modernization and replacement plan, and its apparent inability to address the situation before the entire NOAA fleet becomes obsolete. For this reason, in the past two Congresses, I have introduced and supported legislation to authorize a fleet modernization and replacement program for NOAA.

As part of the NOAA fleet modernization program, section 604(d) of H.R. 2130 authorizes the Secretary of Commerce, on behalf of NOAA, to enter into multi-year lease agreements with investors who have established capital construction funds pursuant to section 607(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1177(k)). This amendment would enable investors who choose to do so to build ships and lease them to NOAA, under terms that would be favorable both to the government and to the investors. The NOAA fleet and the Merchant Marine Act are both matters within the jurisdiction of the Committee on Merchant Marine and Fisheries.

H.R. 2130 was ordered reported by the Merchant Marine and Fisheries Committee on May 2, 1991. The reported bill contains the maritime financing provision described above. Because of their jurisdiction over some NOAA programs, I am developing a joint committee substitute for H.R. 2130 with the Science, Space,

and Technology Committee and plan to bring that substitute to the Rules Committee and the Floor after the July 4 recess. To accommodate your concern that the House not send a revenue measure to the Senate at this time, I am prepared to delete the maritime financing provision of H.R. 2130 from the joint committee substitute.

I will wish to discuss the NOAA provision with you further at such time as you plan to pursue amendments to the Internal Revenue Code, including any amendments that may pertain to the capital construction fund.

With kind regards, I am

Sincerely,

Walter B. Jones

Walter B. Jones
Chairman

cc: The Honorable Thomas S. Foley
The Honorable Richard A. Gephardt
The Honorable Robert H. Michel
The Honorable Robert Davis
The Honorable Dennis M. Hertel
The Honorable Herbert H. Bateman
The Honorable Bill Archer